

ARTICLE XVI ZONING OFFICE

SECTION 1600 ZONING OFFICE

1600.1 Creation

The Zoning Office is hereby created and shall be contained within the Planning Division of the Department of Community Development. The Zoning Officer shall be the same person who is named Planning Coordinator of the Planning Division, pursuant to Sec. 2-414.1 of the Rockford Code of Ordinances.

1600.2 Powers and Duties

The Zoning Officer shall enforce the provisions of this Ordinance and, in addition thereto, and furtherance of said authority, shall:

- A. Examine and approve any application pertaining to the use of land, buildings or structures to determine if the application conforms with the provisions of this Ordinance.
- B. Issue all zoning clearances and keep permanent records thereof.
- C. Issue all certificates of zoning compliance and keep permanent records thereof.
- D. Conduct such inspections of buildings, structures and uses of land as are necessary to determine compliance with the terms of this Ordinance.
- E. Receive, file and prepare staff recommendations for all applications for appeals, variations, special uses and amendments to this Ordinance which are filed in the Zoning Office.
- F. Initiate, direct and review, from time to time, a study of the provisions of this Ordinance and make reports of these recommendations to the Planning Division, Department of Community Development, Zoning Board of Appeals and the City Council.
- G. Revoke certificates of zoning compliance where provisions of this Ordinance are being violated.
- H. Issue a certificate of zoning compliance upon request for nonconforming uses existing at the time of passage of this Ordinance or any amendment thereto.
- I. Maintain permanent and current records of the Zoning Ordinance, including all maps, amendments, special uses and variations.
- J. Provide and maintain public information relative to all matters arising out of this Ordinance.

1601 ZONING BOARD OF APPEALS

1601.1 Creation of the Board

A Zoning Board of Appeals is hereby created, such Board to consist of seven (7) members appointed by the Mayor, by and with the consent of the City Council. The word "Board," when used in this Section, shall be construed to mean the Zoning Board of Appeals. All members of the Board shall be residents of the City of Rockford. No members of the Board shall hold an elective office in the City or County government. The members of the Board shall serve the following terms, or until their respective successors are appointed and qualified:

One for a term of one year;
One for a term of two years;
One for a term of three years;
One for a term of four years;
One for a term of five years;
One for a term of six years; and
One for a term of seven years.

Thereafter, as their terms expire, each new appointment shall be for a term of five (5) years. One of the members of the Board shall be designated by the Mayor, with the consent of the City Council, as chairman and shall hold office as chairman until his successor is appointed. The Mayor shall have the power to remove any member of the Board for cause and after a public hearing, with consent of the City Council. Vacancies upon the Board shall be filled for the unexpired term of the member whose place has become vacant, in the manner herein provided for the appointment of such members.

1601.2 Meetings and Rules

All meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. All hearings conducted by said Board shall be open to the public. Any person may appear and testify at a hearing, either in person or by a duly authorized agent or attorney, subject to the Board's rules of procedure. All testimony by witnesses at a hearing shall be given under oath. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicate such fact, and shall also keep records of its hearings and other official actions. Every rule or regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall be filed immediately in the Zoning Office and shall be a public record. The Board shall adopt its own rules of procedure not in conflict with this Ordinance, or with the applicable Illinois Statutes. A copy of said rules of procedure shall be filed in the Zoning Office. All regularly scheduled meetings of the Board shall be held at 6:30 P.M. (Ord.1994-284-O)

1601.3 Meeting Accommodations

The City Council shall provide suitable meeting accommodations for the holding of hearings and the presentation of records, documents and accounts.

1601.4 Appropriations

The City Council shall appropriate funds to carry out the duties of the Board, and the Board shall have the authority to expend, under regular procedure, all sums appropriated to it for the purposes and activities authorized herein.

1601.5 Compensation

Compensation to the members of the Board shall be determined by Ordinance by the City Council.

1601.6 Jurisdiction

The Board of Appeals is hereby vested with the following jurisdiction and authority:

- A. To hear and make recommendations on appeals from any order, requirement, decision or determination made by the Zoning Officer under this Ordinance. The Board may recommend reversal or affirm, wholly or partly, or may modify or amend the order, requirement, decision or determination appealed from, to the extent and in the manner that the Board may decide to be fitting and proper on the premises, and to that end, the Board shall also have all the powers of the Zoning Officer from whom the appeals are taken.

- B. To hear and make recommendations to City Council on all matters referred to it or upon which it is required to pass under this Ordinance, including applications for Variations, Special Use Permits and Ordinance Amendments.

1601.7 Decisions of the Board of Appeals

The concurring vote of four (4) members of the Board shall be necessary to recommend reversal of any order, requirement, decision or determination of the Zoning Officer; or recommend for approval any application or matter upon which the Board is authorized by this Ordinance to make recommendations. Regardless of the motion made, whenever there is less than four (4) members who concur or vote in favor of the motion, then the decision of the item shall be deemed a recommendation for disapproval.

1602 APPEALS

1602.1 Scope of Appeal

An appeal to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the City of Rockford. The appeal shall be taken within forty-five (45) days of the alleged aggrievance or judgment in question. The appeal shall be filed in the Zoning Office on forms furnished by the Officer. Within ten (10) days of filing, the Officer shall, forthwith, transmit the appeal to the Board, along with all papers constituting the record upon which the action appealed was taken.

1602.2 Stay of Proceedings

The appeal shall stay all proceedings and furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals, after notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril of life or property. In such a case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals, or by a Circuit Court on the application, with notice to the Officer from whom the appeal is taken and on due cause shown.

1602.3 Hearing of Appeals

The Board shall fix a reasonable time, not more than forty-five (45) days from the date of filing, for the hearing of an appeal and shall give due notice thereof to all the parties involved. At the hearing, any person, including elected officials, may appear in person, or by agent or by attorney.

1602.4 Disposition of Appeals

The Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination as it deems necessary. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the administrative official. In all cases, the Board shall render its decision within thirty-five (35) days of the hearing adjournment.

1602.5 Submission To Council

After the Zoning Board of Appeals has reached a decision and announced it, the Zoning Officer shall notify all parties involved of the Board's decision within ten (10) days after action by the Board of Appeals.

1602.6 Review of the Board's Decision

The Zoning Board of Appeals' decision is a final administrative decision and shall be subject to judicial review pursuant to the provisions of the Administrative Review Law, as provided by Ill. Rev. Stat., Chapter 24, Section 11-13-13.

1603 SPECIAL USES

1603.1 Purpose

The formulation and enactment of a comprehensive Zoning Ordinance is based on the division of the entire City into districts, each of which are permitted specified uses that are mutually compatible. In addition to such permitted, compatible uses, however, it is recognized that there are other uses which may be necessary or desirable to allow in a given district, but which, because of their potential influence upon neighboring uses or public facilities, need to be carefully regulated with respect to location or operation for the protection of the community. Such uses are classified in this Ordinance as "special uses" and fall into three categories:

- A. Uses either municipally operated or operated by publicly regulated utilities, or uses traditionally affected by public interest.
- B. Uses entirely private in character which, because of their peculiar locational need, the nature of the service they offer to the public, and their possible damaging influence on the neighborhood, may have to be established in a district or districts in which they cannot reasonably be allowed as an unrestricted permitted use under the zoning regulations.
- C. Nonconforming uses which as "special uses" can be made more compatible with their surroundings.

1603.2 Application for a Special Use Permit

An application for a Special Use Permit shall be filed on a prescribed form with the Zoning Office. The applicant shall include a statement in writing and conform to the standards set forth in this Ordinance hereinafter, plus the following information and material:

- A. Name and address of applicant.
- B. Statement that the applicant is the owner or the authorized agent of the owner of the property for which the Special Use Permit is proposed. If an authorized agent of the owner is the applicant, the agent shall also submit the written statement of the owner authorizing the agent to submit the application.
- C. Address, property tax code number and accurate legal description of the property.
- D. An accurate scale drawing of the area illustrating the land use of all properties located within three hundred (300) feet of the property for which the application is being filed.
- E. An accurate scale drawing of the site showing existing and proposed locations of streets, property lines, setback lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities and landscaped areas.
- F. A list of the names and addresses of the owner of record of each property located adjacent to and/or directly across a street or alley from the property and the property tax code number for each property.
- G. The application shall be accompanied by the prescribed fee as indicated in Sec. 1606.
- H. Detailed landscaping plans whenever the use involves a parking area which is required to be landscaped; and such other information as may be appropriate and desirable to assist in evaluating the application.
- I. Soil and Water Conservation District report.

- J. An application for a bed and breakfast establishment shall also include the following: a floor plan drawn to customary engineering or architectural scale of the proposed bed and breakfast establishment showing all rooms and designation of room usage, including guest rooms, owners rooms, kitchen and common use room; and photographs of the proposed bed and breakfast building, accessory buildings and the zoning lot

1603.3 Hearing of Application

Upon receipt in proper form of the application and statement, the Board of Appeals shall hold at least one (1) public hearing on the proposed Special Use Permit. The hearing shall be conducted and a record filed in the Zoning Office. Notice of the date, time, place and subject matter of the hearing shall be given by:

- A. Posting notice on the property not less than ten (10) days prior to the hearing; and
- B. Placing written notice in the United States mail, first class, addressed to the person or persons to whom the general real estate taxes for the last preceding year were billed for each lot or tract adjacent to the subject property, and delivering notice to the alderman of the ward. Failure of property owners to receive said notice because of change of mailing address, or other reasons beyond the Zoning Officer's control, shall not invalidate the proceedings; and
- C. Publishing a notice at least once in one or more newspapers published in the City of Rockford, not more than thirty (30) nor less than fifteen (15) days before the hearing, containing the particular location for the request and a brief statement of what the Special Use Permit request consists.

1603.4 Staff Report and Recommendation

The Zoning Officer or his designated staff shall submit a report and recommendation to the Zoning Board of Appeals on the proposed special use at the time of the public hearing.

1603.5 Findings of Fact and Recommendation by Zoning Board of Appeals

- A. For the Board of Appeals to recommend approval of an application for any requested Special Use Permit, it must find that each of the following items are met:
 - 1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - 2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood.
 - 3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
 - 4. Adequate utilities, access roads, drainage and/or necessary facilities have been, are being, or will be provided.
 - 5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
 - 6. The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except in those instances wherein either the use of the property is nonconforming, in which case, exceptions may be made as appropriate to result in the nonconforming use, or property becoming more compatible with the existing character of the area.

B. Conditions Which the Board May Include in Its Recommendation for Approval of Any Special Use Permit

The Board of Appeals may include such conditions or restrictions upon the construction, location and operation of a special use as deemed necessary to secure the general objective of this Ordinance. Such conditions or restrictions shall include, but not be limited to, provisions for the protection of adjacent property, the expiration of said Special Use Permit after a specified period of time, and off-street parking and loading provisions.

C. Deadline for Zoning Board of Appeals Recommendations

Within thirty-five (35) days after the close of a public hearing on a proposed Special Use Permit, the Board of Appeals shall make a decision accompanied by findings of fact in accordance with the provisions of Sec. 1603.5(A) of this Ordinance and submit it to the Zoning Officer.

D. Submission to Council

Within ten (10) days following the date of a recommendation by the Zoning Board of Appeals on a Special Use Permit application, the Zoning Officer shall transmit, or cause to be transmitted, written notice of said recommendation with findings of fact to the City Council and the Mayor.

1603.6 Disposition by Council

Upon receipt of the recommendation of the Zoning Board of Appeals, the recommendation shall be referred to the appropriate standing committee and not less than sixty (60) days thereafter, the City Council shall, without further public hearing, approve, reverse or modify the recommendation of the Zoning Board of Appeals, or refer it back to the Zoning Board of Appeals for further consideration. Every approval of a Special Use Permit shall be made by ordinance and shall be accompanied by a written finding of fact based on the factors listed in Subsection (A) of this Section. Disposition of an application for a Special Use Permit shall be made by majority vote, except any application for a Special Use Permit which fails to receive recommendation of approval of the Zoning Board of Appeals shall not be approved by the City Council, except by the favorable vote of two-thirds ($\frac{2}{3}$) of the aldermen. A copy of the action taken on an application for a Special Use Permit shall be supplied to the Zoning Office within ten (10) days of the date on which City Council acted on it. A Special Use Permit shall be effective upon the passage, approval and publication of the Ordinance approving it, as provided by law.

1603.7 A Special Use Permit to Run with the Land

A Special Use Permit granted pursuant to the provisions of this Article shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which is the subject of the Special Use Permit application subject to lapse, expiration and revocation provisions of this Ordinance. (Ord.1993-345-O)

1603.8 Effect of Denial of a Special Use Permit

No application for a Special Use Permit which has been denied wholly or partly by the City Council shall be resubmitted for a period of one (1) year from the date of said denial by the City Council, except on the grounds of new evidence or proof of changed conditions found to be valid by the Zoning Officer.

1603.9 Lapse of a Special Use Permit

The approval of an application for a Special Use Permit, including modification or renewal of such Special Use Permit, shall lapse and become void under certain conditions outlined below:

- A. If there is no building or construction-type work involved, and if use of the property has not commenced within two (2) years of the date of effectiveness of the approval of the application for a Special Use Permit, or modification or renewal, whichever is applicable, the Special Use Permit shall

lapse, provided, however, that whenever the property involved is located in such an area that it cannot be used until public streets and/or utility lines have been installed, then the Special Use Permit shall lapse if the use on the property has not commenced within two (2) years of the date on which the necessary public street and/or utility lines were installed.

- B. If there is some type of building or construction work involved, and if any necessary building permit has not been obtained within two (2) years from the date of effectiveness of the approval of the application for a Special Use Permit or modification or renewal, whichever is applicable, or the use of the property is not commenced within three (3) years from the date upon which the appropriate application was approved, the Special Use Permit shall lapse, provided, however, that whenever the property involved is located in such an area that it cannot be used until public streets and/or utility lines have been installed, then the Special Use Permit shall lapse if the necessary building permit has not been obtained within two (2) years of the date on which the necessary public street and/or utility lines have been installed, and the use of the property is not commenced within three (3) years of the date on which the public street and/or utility lines have been installed.
- C. If the use of the property as authorized by the Special Use Permit, or modification or renewal, is commenced and at a later date is discontinued for a period of twenty-four (24) consecutive months or there is evidence of a clear intent on the part of the owner to abandon the property, then the Special Use Permit shall lapse. If the use of the property as authorized by the Special Use Permit, or modification or renewal, is commenced and at a later date discontinued for a period of twelve (12) to twenty-three (23) consecutive months, the Special Use Permit, including a modification or renewal of such Special Use Permit, shall require staff review and a "finding of fact" by the Zoning Officer before the special use can be reestablished. In this case, staff shall perform a review using the six standard "Findings of Fact" criteria listed in Sec. 1603.5 of this Ordinance. If a positive review is made to all six criteria, a Zoning Clearance shall be issued to reestablish the special use. If a negative review is made for one or more of the six criteria, the Zoning Officer shall deny the request to reestablish the special use and the Special Use Permit shall lapse. In this event, the applicant may appeal the Zoning Officer's decision and/or file an application for a Special Use Permit.

1603.10 Renewal of a Special Use Permit

A. Limitations

A Special Use Permit may be renewed one (1) time only for an additional period of two (2) years, provided that, prior to the expiration of two (2) years from the date when the Special Use Permit originally became effective, an application for renewal of the Special Use Permit is filed with the Zoning Board of Appeals.

B. Application

An application for Renewal of a Special Use Permit shall be submitted on a form provided for that purpose, and shall be filed in such time that it may be scheduled to be acted upon by the Zoning Board of Appeals prior to the date of expiration of the original Special Use Permit. No site plan, list of adjacent property owners or public hearing shall be required.

C. No Modification

The Zoning Board of Appeals shall recommend that City Council grant or deny an application for Renewal of a Special Use Permit. In recommending approval of such application, the Board shall not modify, delete or add to any previously imposed conditions.

D. Submission To Council

Within ten (10) days following the date of a recommendation by the Zoning Board of Appeals on a Renewal of a Special Use Permit application, the Zoning Officer shall transmit, or cause to be transmitted, written notice of said decision to the City Council and to the Mayor.

E. Disposition By Council

Upon receipt of the recommendation of the Zoning Board of Appeals, the recommendation shall be referred to the appropriate standing committee and, not less than sixty (60) days thereafter, the City Council shall approve or reverse, but not modify, the recommendation by the Zoning Board of Appeals, or refer it back to the Zoning Board of Appeals for further consideration. Every renewal of a Special Use Permit shall be made by ordinance. Disposition of an application for Renewal of a Special Use Permit shall be made by majority vote, except any application for a Renewal of a Special Use Permit which fails to receive the approval of the Zoning Board of Appeals shall not be approved by the City Council except by the favorable vote of two-thirds ($\frac{2}{3}$) of the aldermen. A copy of the action taken on an application for Renewal of a Special Use Permit shall be supplied to the Zoning Office within ten (10) days of the date on which City Council acted on it. A Renewal of a Special Use Permit shall be effective upon the passage, approval and publication of the ordinance approving it, as provided by law.

1603.11 Modification of Special Use Permit

- A. A Modification of a valid Special Use Permit may be applied for in the same manner as for an application for an original Special Use Permit, as provided for in Sec. 1603.2. Any such application shall be scheduled for a public hearing and referred to the Office of the Zoning Officer, as provided for in Sec. 1603.3 and Sec. 1603.4.
- B. An approved Modification of a Special Use Permit shall be subject to the same provisions relative to the lapse after two (2) years and renewal as an original Special Use Permit and as provided for in Sec. 1603.9 and Sec. 1603.10.
- C. Whenever an application for a Modification of a Special Use Permit has been denied, a similar application for the same property shall not be resubmitted for a period of one (1) year from the date of said denial, except on the grounds of new evidence or proof of changed conditions found to be valid by the Zoning Officer.
- D. The Zoning Board of Appeals may require such conditions or restrictions upon the construction, location and operation of the use for which the application for Modification of a Special Use Permit has been filed, as deemed necessary to secure the general objectives of this Ordinance. Such conditions or restrictions shall include, but not be limited to, provisions for the protection of adjacent property, the expiration of said permit after a specified period of time, and off-street parking and loading. The Zoning Board of Appeals may require such conditions or restrictions upon the construction, location and operation of the use for which the application for Modification of a Special Use Permit has been filed, as deemed necessary to secure the general objectives of this Ordinance.
- E. Within thirty-five (35) days after the close of a public hearing on an application for a Modification of a Special Use Permit, the Zoning Board of Appeals shall make a decision accompanied by findings of fact in the same manner as for an application for the original Special Use Permit, as provided for in Sec. 1603.5.
- F. Within ten (10) days following the date of recommendation by the Zoning Board of Appeals on an application for a Modification of a Special Use Permit, the Zoning Office shall transmit, or cause to be transmitted, written notice of said recommendation to the City Council and the Mayor.
- G. Upon receipt of the recommendation of the Zoning Board of Appeals, the recommendation shall be referred to the appropriate standing committee and, not more than sixty (60) days thereafter, the

City Council shall approve, reverse or modify the recommendation of the Zoning Board of Appeals, or refer it back to the Zoning Board of Appeals for further consideration. Every approval of a Modification of a Special Use Permit shall be made by ordinance and shall be accompanied by a written finding of fact based on the factors listed in Subsection (A) of this Section. Disposition of an application for a Modification of a Special Use Permit shall be made by majority vote, except any application for a Modification of a Special Use Permit which fails to receive the approval of the Zoning Board of Appeals shall not be approved by the City Council except by the favorable vote of two-thirds (2/3) of the aldermen. A copy of the action taken on an application for a Modification of a Special Use Permit shall be supplied to the Zoning Office within ten (10) days of the date on which City Council acted on it. A Modification of a Special Use Permit shall be effective upon the passage, approval and publication of the ordinance approving it, as provided by law.

1603.12 Structural Change on Property Governed by a Special Use Permit

Whenever a property owner or occupant of property which contains a use of a type that requires a Special Use Permit, and for which such a permit has been approved, desires to make a change to a building or structure located on the property, then such a change may be acted upon by the Zoning Officer by means of an application for a Zoning Clearance and without the necessity of obtaining a Modification of the Special Use Permit for the property, provided the proposed change complies with all of the following limitations and provisions:

- A. The result of the proposed change shall be that the property will still be in substantial compliance with the previously approved plot plan and none of the conditions previously imposed at the time of approval of the Special Use Permit by City Council will be negated or changed.
- B. The proposed change will, in the opinion of the Zoning Officer, result in a better utilization of the property or a more efficient and desirable use of the land.
- C. The proposed addition, enlargement or change of any building or structure on the property will not infringe upon or extend into any required building setback or yard area, off-street parking or loading space, or distance between building areas.
- D. The amount of land to be covered by the proposed addition, enlargement or change will be not more than ten percent (10%) of the amount of land covered by all existing buildings or structures on the property; and the floor area added because of the proposed addition, enlargement or change shall be not more than ten percent (10%) of the total floor area of all existing buildings on the property.
- E. If the proposed addition, enlargement or change will result in requirement for additional off-street parking or loading spaces, then such spaces shall be provided as required by the applicable Zoning Ordinance provisions.
- F. The proposed addition, enlargement or change shall not result in a change in any previously imposed condition, nor shall it result in an enlargement or increase of any previously approved variation.
- G. The type of land use shall remain the same as was approved by means of the Special Use Permit approved for the property.

1603.13 Application for Revocation of a Special Use Permit

A revocation of a Special Use Permit may be initiated by the City Council by adoption of a Resolution instructing the Legal Director to file an application on a prescribed form with the Zoning Office. The application shall include the following information and material:

- A. Address, property tax code number and accurate legal description of the property.

- B. Name and address of the subject property's owner, and if different, the name and last known address of the Special Use Permit applicant, and the name of the occupant of the property.
- C. A list of the names and addresses of the owner of record of each property located adjacent to and/or directly across a street or alley from the property and the property tax code number for each property.
- D. The reason revocation of the Special Use Permit is being requested.
- E. A copy of the ordinance granting the Special Use Permit.

1603.14 Hearing of Application

Upon receipt in proper form of the application, the Board of Appeals shall hold at least one (1) public hearing on the proposed revocation of the Special Use Permit. The hearing shall be conducted and a record filed in the Zoning Office. Notice of the date, time, place and subject matter of the hearing shall be given by:

- A. Posting notice on the property not less than ten (10) days prior to the hearing;
- B. Place written notice in the U.S. mail, first class, addressed to the person or persons to whom the Winnebago County Recorder's Office shows as the last titleholder of record for the subject property and for each property located adjacent to and/or directly across a street or alley from the subject property, to the Special Use Permit applicant and to the subject property occupant, and delivering a notice to the alderman of the ward. Failure of property owners, the Special Use Permit applicant, or the occupant to receive said notice because of change of mailing address, or other reasons beyond the Zoning Officer's control, shall not invalidate the proceedings; and
- C. Publishing a notice at least once in one or more newspapers published in the City of Rockford, not more than thirty (30) nor less than fifteen (15) days before the hearing, containing the particular location for the request and a brief statement of what the Special Use Permit revocation request consists.

1603.15 Staff Report and Recommendation

The Zoning Officer or his designated staff shall submit a report and recommendation to the Zoning Board of Appeals on the proposed revocation of the Special Use Permit at the time of the public hearing.

1603.16 Findings of Fact and Recommendation by Zoning Board of Appeals

- A. For the Board of Appeals to recommend revocation of a Special Use Permit, it must find that each of the following items are met:
 - 1. The Special Use Permit is being conducted in violation with any condition or restriction upon which it was granted, or is not in conformance with the applicable regulations of the district in which it is located (except to the extent the Special Use Permit approved the nonconformance).
 - 2. The owner and occupant of the property have been notified of the violation or nonconformance prior to the filing of the revocation application and have failed to correct it.
- B. The Board of Appeals may not recommend the granting of an extension of time to comply with the Special Use Permit conditions or restrictions or with district regulations as part of a recommendation on an application to revoke a Special Use Permit.
- C. Deadline for zoning board of appeals recommendations

Within thirty-five (35) days after the close of a public hearing on a proposed revocation of Special Use Permit, the Board of Appeals shall make a decision accompanied by findings of fact in accordance with the provisions of Sec. 1603.16(A) of this Ordinance and submit it to the Zoning Officer.

D. Submission to Council

Within ten (10) days following the date of a recommendation by the Zoning Board of Appeals on a revocation of a Special Use Permit application, the Zoning Officer shall transmit, or cause to be transmitted, written notice of said recommendation with findings of fact to the City Council and the Mayor.

1603.17 Disposition by Council

Upon receipt of the recommendation of the Zoning Board of Appeals, the recommendation shall be referred to the appropriate standing committee and not less than sixty (60) days thereafter, the City Council shall, without further public hearing, approve, reverse or modify the recommendation of the Zoning Board of Appeals, or refer it back to the Zoning Board of Appeals for further consideration. Every revocation of a Special Use Permit shall be made by ordinance and shall be accompanied by a written finding of fact based on the factors listed in Subsection (A) of Section 1603.16. Disposition of an application for a revocation of Special Use Permit shall be made by majority vote. A copy of the action taken on an application for revocation of a Special Use Permit shall be supplied to the Zoning Office within ten (10) days of the date on which City Council acted on it. Revocation of a Special Use Permit shall be effective upon the passage approval and publication of the Ordinance approving it, as provided by law.

The provisions and sections of this Ordinance shall be deemed severable, and the invalidity of any portion of this Ordinance shall not affect the validity of the remainder.

All orders, resolutions, or ordinances in conflict herewith are hereby repealed insofar as such conflict exists, and this Ordinance shall take effect immediately upon its passage, approval, and publication, as required by law.

1604 VARIATION

1604.1 Purpose

The Zoning Board of Appeals, with final decision by City Council, shall determine and may vary the regulations of this Ordinance in harmony with its general purpose and intent only in specific instances where the Board makes a finding of fact, based upon the standards hereinafter prescribed, that there are practical difficulties in carrying out the strict letter of the regulations of this Ordinance and that the granting of a variation will not merely serve as a convenience to the applicant, but is necessary to alleviate some demonstrable difficulty. Nothing in this Section shall be construed in such a manner as to permit a variation to be used in lieu of a Special Use Permit or Zoning Map Amendment, but a Variation may be used to complement a Special Use Permit or a Zoning Map Amendment and also as authorized in various provisions of this Zoning Ordinance.

1604.2 Application for a Variation

An application for a Variation shall be filed with the Zoning Officer. The application shall contain information as prescribed by the Zoning Officer, plus the following information and material:

- A. Name and address of applicant.
- B. Statement that the applicant is the owner or the authorized agent of the owner of the property for which the application for a Variation is proposed. If an authorized agent of the owner is the applicant, the agent shall also submit the written statement of the owner authorizing the agent to submit the application.

- C. Address, property tax code number and accurate legal description of the property.
- D. An accurate scale drawing of the area illustrating the land use of all properties located within three hundred (300) feet of the property for which the application is being filed.
- E. An accurate scale drawing of the site showing existing and proposed locations of streets, property lines, setback lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities, and landscaped areas.
- F. A list of the names and addresses of the owner of record of each property located adjacent to and/or directly across a street or alley from the property and the property tax code number for each property.
- G. The application shall be accompanied by the prescribed fee as indicated in Sec. 1606.
- H. Detailed landscaping plans whenever the use involves a parking area which is required to be landscaped, and such other information as may be appropriate and desirable to assist in evaluating the application.
- I. Soil and Water Conservation District report.

1604.3 Hearing and Application

Upon receipt in proper form of the application and statement, the Board of Appeals shall hold at least one (1) public hearing on the proposed Variation. The hearing shall be conducted and a record filed in the Zoning Office. Notice of the date, time, place and subject matter of the hearing shall be given by:

- A. Posting notice on the property not less than ten (10) days prior to the hearing; and
- B. Placing written notice in the United States mail, first class, addressed to the owners listed by the applicant under Sec.1604.2(F), and delivering notice to the alderman of the ward. Failure of property owners to receive said notice because of change of mailing address or other reasons beyond the Zoning Officer's control, shall not invalidate the proceedings; and
- C. Publishing a notice at least once in one or more newspapers published in the City of Rockford, not more than thirty (30) nor less than fifteen (15) days before the hearing containing the particular location for the request and a brief statement of what the Variation request consists.

1604.4 Staff Report and Recommendation

The Zoning Officer, or his designated staff, shall submit a report and recommendation to the Zoning Board of Appeals on the proposed Variation at the time of the public hearing.

1604.5 Findings of Fact and Recommendation by Zoning Board of Appeals

A. Findings

For the Zoning Board of Appeals to approve an application for any proposed Variation, it must find that each of the following items are met:

- 1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

2. The conditions upon which a petition for a Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of the Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of the Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation complies with the spirit and intent of restrictions imposed by this Ordinance.

B. Conditions Which the Zoning Board of Appeals May Attach to Variations

The Zoning Board of Appeals may recommend requirement of such conditions or restrictions upon the construction, location and operation of a Variation as deemed necessary to secure the general objectives of this Ordinance. Such conditions or restrictions shall include, but not be limited to, provisions for the protection of adjacent property, the expiration of said Variation after a specified period of time, and off-street parking and loading provisions.

C. Deadline for Zoning Board of Appeals Recommendation

Within thirty-five (35) days after the close of a public hearing on a proposed Variation, the Board of Appeals shall make a decision accompanied by findings of fact in accordance with the provisions of Sec. 1604.5(A) of this Ordinance and submit it to the Zoning Officer.

D. Submission to Council

Within ten (10) days following the date of a recommendation by the Zoning Board of Appeals on a Variation application, the Zoning Officer shall transmit, or cause to be transmitted, written notice of said recommendation with findings of fact to the City Council and the Mayor.

1604.6 Disposition by Council

Upon receipt of the recommendation of the Zoning Board of Appeals, the recommendation shall be referred to the appropriate standing committee, and not less than sixty (60) days thereafter, the City Council shall, without further public hearing, approve, reverse or modify the recommendation of the Zoning Board of Appeals, or refer it back to the Zoning Board of Appeals for further consideration. Every approval of a Variation shall be made by ordinance and shall be accompanied by a written finding of fact based on the factors listed in Subsection (A) of this Section. Disposition of an application for a Variation shall be made by majority vote, except any application for a Variation which fails to receive the approval of the Zoning Board of Appeals shall not be approved by the City Council except by the favorable two-thirds (2/3) vote of the aldermen. A copy of the action taken on an application for a Variation shall be supplied to the Zoning Office within ten (10) days of the date on which City Council acted on it. A Variation shall be effective upon the passage, approval and publication of the ordinance approving it, as provided by law.

1604.7 Effect of a Denial of a Variation

No application for a Variation which has been wholly or partly denied by the City Council shall be resubmitted for a period of one (1) year from date of said denial, except on the grounds of new evidence or proof of changed conditions found to be valid by the Zoning Officer.

1604.8 Lapse of a Variation

The approval of an application for a Variation shall lapse and become void under certain conditions outlined below:

- A. If there is no building or construction type work involved, and if the use of the property has not commenced within two (2) years of the date of effectiveness of the approval of the application for a Variation, the variation shall lapse, provided, however, that whenever the property involved is located in such an area that it cannot be used until public streets and/or utility lines have been installed, then the use on the property must commence within two (2) years of when the necessary public street and/or utility lines were installed or the variation will lapse.
- B. If there is some type of building or construction work involved, and if any necessary building permit has not been obtained within two (2) years from the date of effectiveness of the approval of the application for a Variation, or the use of the property has not commenced within three (3) years from the date upon which the application was approved, the variation shall lapse, provided, however, that whenever the property involved is located in such an area that it cannot be used until public streets and/or utility lines have been installed, then the variation shall lapse if the necessary building permit has not been obtained within two (2) years of the date upon which the necessary public street and/or utility lines were installed, or the use of the property has not commenced within three (3) years after the date upon which the necessary public street and/or utility lines were installed.
- C. If the use of the property, as authorized by the Variation, has commenced and, at a later date, is discontinued for a period of four (4) consecutive months, or there is evidence of a clear intent on the part of the owner to abandon the property, then the Variation shall lapse. Whenever a Variation has lapsed and become void for any of the reasons outlined in Subsections A, B or C, above, then another application for a Variation for the same use or a different use may be submitted if the property owner so desires.

1605 AMENDMENTS

1605.1 Purpose

This ordinance may be amended by changing the boundaries of any district or by changing any district regulation, off-street parking or loading facilities requirement, general provision, exception, or other provision thereof in accordance with the procedure prescribed in this Article.

1605.2 Initiation

A. Boundary Amendments

- 1. A change in the boundaries of any district may be initiated by application of any person, firm or corporation owning or leasing property in the City of Rockford. If a proposed change of a district is in more than one ownership, all the owners, or their authorized agents, shall join in filing the application.
- 2. A change in the boundaries of any district may be initiated by the City Council by adoption of a Resolution instructing the Legal Director to file an application in accordance with the procedure described in Sec. 1605.3.

B. Regulation Amendments

1. A change in the regulations affecting any district may be initiated by any resident of the City of Rockford, or any person, firm or corporation owning or leasing property in the City of Rockford.
2. A change in the regulations affecting any district may be initiated by the City Council by adoption of a Resolution instructing the Legal Director to file an application in accordance with the procedure described in Sec. 1605.3.

1605.3 Application Filing Procedure

Any person desiring to propose a change in regulations, or his authorized agent, may file with the Zoning Officer an application thereof on a form prescribed by the Zoning Officer stating clearly the nature of the proposed change. A property owner desiring to propose a change in the boundaries of the district in which his property is located, or his authorized agent, may file with the Zoning Officer an application for a change in district boundaries on a form prescribed by the Zoning Officer which shall include the following information and material:

- A. Name and address of applicant.
- B. Statement that the applicant is the owner or the authorized agent of the owner of the property for which the change in regulations is proposed. If an authorized agent of the owner is the applicant, the agent shall also submit the written statement of the owner authorizing the agent to submit the application.
- C. Address, property tax code number and accurate legal description of the property.
- D. An accurate scale drawing of the area illustrating the land use of all properties located within three hundred (300) feet of the property for which the application is being filed.
- E. An accurate scale drawing of the site showing existing and proposed locations of streets, property lines, setback lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities, and landscaped areas.
- F. A list of the names and addresses of the owner of record of each property located adjacent to and/or directly across a street or alley from the property and the property tax code number for each property.
- G. The application shall be accompanied by the prescribed fee, as indicated in Sec. 1606.
- H. Detailed landscaping plans whenever the use involves a parking area which is required to be landscaped; and such other information as may be appropriate and desirable to assist in evaluating the application.
- I. Soil and Water Conservation District report.

1605.4 Public Hearing Notice

The Zoning Board of Appeals shall hold a public hearing on each application for a change in district boundaries, or for a change in regulations. The hearing shall be conducted and a record filed in the Zoning Office.

A. Notice of Boundary Amendments

Notice of the date, time, place and subject matter of the hearing shall be given by:

1. Posting notice on the property not less than ten (10) days prior to the hearing; and
2. Placing written notice in the United States mail, first class, addressed to the owners listed by the applicant under Sec. 1605.3(F), above, and delivering notice to the alderman of the ward. Failure of property owners to receive said notice because of change of mailing address, or other reasons beyond the Zoning Officer's control, shall not invalidate the proceedings; and
3. Publishing a notice at least once in one or more newspapers published in the City of Rockford, not more than thirty (30) nor less than fifteen (15) days before the hearing.

B. Notice of Regulation Amendments

Notice of the public hearing to be held on proposed changes in district regulations or any provision of the Zoning Ordinance text shall be given by publication, or a suitable notice in a newspaper of general circulation in the City of Rockford. Such notice shall be published not less than fifteen (15) days prior to the hearing date, and the contents of the notice need be only of a general nature referring only to the general subject matter and the appropriate articles or sections involved.

1605.5 Staff Report and Recommendation

The Zoning Officer, or his designated staff, shall submit a report and recommendation to the Board of Appeals on the proposed amendment at the time of public hearing.

1605.6 Findings of Fact and Recommendation of the Board of Appeals

Within thirty-five (35) days following the public hearing on an application for a Zoning Map Amendment, the Board of Appeals shall make a specific finding as to whether or not the change is consistent with the objectives of the Zoning Ordinance prescribed in Article II and the general plan. The Zoning Officer shall forward the report and recommendations to the City Council and the Mayor within ten (10) days after action by the Board of Appeals.

1605.7 Disposition by Council

Upon receipt of the recommendation of the Zoning Board of Appeals, the recommendation shall be referred to the appropriate standing committee, and not less than sixty (60) days thereafter, the City Council shall, without further public hearing, approve, reverse or modify the recommendation of the Zoning Board of Appeals, or refer it back to the Zoning Board of Appeals for further consideration. An amendment to this Ordinance shall be passed by a majority vote of the City Council present. In the following cases, an amendment shall be passed only by the favorable vote of two-thirds ($\frac{2}{3}$) of all of the members of the City Council:

- A. If a written protest against the proposed amendment is filed in the Zoning Office prior to the second regularly scheduled Council meeting following the date upon which the Zoning Board of Appeals rendered its recommendation, and is signed and acknowledged by the owners of record of twenty percent (20%) or more of:
 1. The lineal footage of property immediately adjoining or directly across an alley from the property for which an amendment has been proposed; and/or
 2. The frontage or lineal footage directly opposite and across a street from the property for which an amendment has been proposed; and/or
 3. The footage for which the amendment has been proposed. Said protest must be served upon the applicant and his attorney in the manner provided by Ill. Rev. Stat., Chapter 24, Section 11-13-14.

- B. If the land affected by a proposed amendment lies within one and one-half (1.5) miles of the limits of a zoned municipality, and a protest against the amendment is passed by the governing body of the zoned municipality with limits nearest adjacent, and the written objection is filed in the Zoning Office.
- C. If the recommendation of the Zoning Board of Appeals was not for approval. A copy of the action taken on an application for an Amendment shall be supplied to the Zoning Office within ten (10) days of the date on which City Council acted on it. An Amendment shall be effective upon the passage, approval and publication of the ordinance approving it, as provided by law.

1605.8 Effect of Denial on an Amendment

No application for an amendment which has been denied wholly or partly by the City Council shall be resubmitted for a period of one (1) year from the date of said denial, except on the grounds of new evidence or proof of changed conditions found to be valid by the Zoning Officer.

1606 SCHEDULE OF FEES FOR ADMINISTRATIVE PROCEDURES

The following fees shall be assessed to the applicant for the various administrative procedures as listed below.

1606.1 Fee Schedule - Effective 10-01-1998

Zoning Map Amendment	
RE, R-1, R-2	
Less than ½ acre	\$300
½ - 2 acres	320
2 – 5 acres	435
Plus \$25 for every acre or portion thereof over 5 acres	No Max.
RM, R-3, R-4, PRD	
Less than ½ acre	\$440
½ - 2 acres	500
2 – 5 acres	525
Plus \$25 for every acre or portion thereof over 5 acres	No Max.
C-1, C-2, C-3, C-4, PMD	
Less than ½ acre	\$450
½ - 2 acres	510
2 – 5 acres	565
Plus \$40 for every acre or portion thereof over 5 acres	No Max.
I-1 & I-2	
Less than ½ acre	\$510
½ - 2 acres	565
2 – 5 acres	620
Plus \$50 for every acre or portion thereof over 5 acres	No Max.
Special Use Permit	
RE, R-1, R-2	
Less than ½ acre	\$300
½ - 2 acres	365
2 – 5 acres	435
Plus \$25 for every acre or portion thereof over 5 acres	No Max.

RM, R-3, R-4, PRD	
Less than ½ acre	\$440
½ - 2 acres	500
2 – 5 acres	575
Plus \$25 for every acre or portion thereof over 5 acres	No Max.
C-1, C-2, C-3, C-4, PMD	
Less than ½ acre	\$450
½ - 2 acres	510
2 – 5 acres	565
Plus \$40 for every acre or portion thereof over 5 acres	No Max.
I-1 & I-2	
Less than ½ acre	\$510
½ - 2 acres	565
2 – 5 acres	620
Plus \$50 for every acre or portion thereof over 5 acres	No Max.
Modification of Special Use Permit	\$250
Renewal of Special Use Permit	\$250
Variation	
RE, R-1, R-2	\$250
RM, R-3, R-4,	300
C-1, C-2, C-3, C-4	350
I-1, I-2	400
Zoning Text Amendment	\$250
Zoning Verification Letters	\$30
Annual Billboard License	\$90
Dumpster Enclosure Permit	\$30
Fence Permits	
RE, R-1, R-2	\$30
RM, R-3, R-4,	60
C-1, C-2, C-3, C-4	85
I-1, I-2	115
Home Occupation Permits	
Initial Permit	\$60
Renewal	30
Parking Lot Permits: Valuation of:	
\$1,000 - \$3,000	\$55
\$3,001 - \$5,000	60
\$5,001 - \$7,000	65
\$7,001 - \$10,000	75
\$10,001 - \$13,000	80
\$13,001 - \$15,000	90
\$15,001 - \$20,000	115
\$20,001 +	\$115 plus \$5 for every \$1,000 valuation over \$20,000

Site Plan Review	
RM, R-3, R-4	\$100
I-1, I-2	100
C-1, C-2, C-3	100

1606.1 Zoning Application Filing Fees; Zoning Permit Filing Fees

(SEE FEE SCHEDULES – Previous pages)

FasTrac Application (see Section 1609):

FasTrac applications shall include a one hundred percent (100%) surcharge on the application fee. All filing fees include publication costs, unless the publication costs exceed one-third ($\frac{1}{3}$) of the filing fee, in which case, the amount of the publication cost that is in excess of two-thirds ($\frac{2}{3}$) of the filing fee shall be billed to the applicant by the Zoning Office on or before the date of the Zoning Board of Appeals meeting for which the notice was published and shall be due and payable within ten (10) days. The City Council may refuse to take action on an application for which additional publication costs have not been paid. (Ord.1993-345-O)

1606.2 Combined Applications

The fee for a combined application shall be the single highest fee, as stated in Sec. 1606.1, of any one of the individual requests within the combined application.

1606.3 Filing Fee Exemptions or Refunds

Exemptions or refunds from required filing fees shall be authorized only in accordance with the following provisions:

- A. Whenever the applicant is a department, division or office of the City of Rockford, then no application filing fee shall be required.
- B. Whenever an application has been accepted in error, then the situation shall be explained to the Zoning Board of Appeals and the Board may direct the filing fee be refunded to the applicant.
- C. In those situations not covered by the provisions of Subsections A and B, above, City Council, by adoption of a Resolution, may direct the Zoning Officer to accept an application without requiring payment of the filing fee, or direct the filing fee to be refunded.
- D. For any previously legal conforming use that is made nonconforming by this Ordinance, the owner has until December 31, 1993, to file a zoning application to become conforming at no charge.
- E. No zoning application fee shall be charged to any property owner who is required to file a zoning application to add a parking area on the property when the need for the parking area is caused by the City removing parking from an adjacent arterial or collector street.

1607 ENFORCEMENT

1607.1 Permits, Certificates and Licenses

All officials, departments and employees of the City of Rockford vested with the authority or duty to issue permits, certificates and licenses shall comply with the provisions of this Ordinance and shall issue no permit, certificate or license which conflicts with the provisions of this Ordinance. Any permit, certificate or license in conflict with the provisions of this Ordinance shall be void.

1607.2 Duties of the Zoning Officer

The Zoning Officer shall be the official responsible for the enforcement of this Ordinance. The Zoning Officer may serve notice requiring the removal of any structure or use in violation of this Ordinance on the owner or his authorized agent, on a tenant, or on an architect, builder, contractor, or other person who commits or participates in any violation. The Zoning Officer may call upon the Legal Department to institute necessary legal proceedings to enforce the provisions of this Ordinance, and the Legal Department hereby is authorized to institute appropriate actions to that end. The Zoning Officer may call upon the Chief of Police and his authorized agents to assist in the enforcement of this Ordinance.

1607.3 Violation Penalties

- A. Failure to comply with any of the requirements of this Ordinance shall constitute a violation and any person, upon conviction thereof, shall be fined not less than fifty (50) dollars, nor more than five hundred (500) dollars for each offense. Proceedings may be commenced by a notice to appear or a summons. Proceedings may also be commenced by the Zoning Officer or his designee forwarding a report form to the Code Hearing Division, as provided for in Article XVIII of Chapter 6 of the City of Rockford Code of Ordinances. Each day the violation continues shall be considered a separate offense.
- B. Any structure or sign erected, moved, altered, enlarged or maintained, and any use of a site contrary to the provisions of this Ordinance, shall be and is hereby declared to be unlawful and a public nuisance, and the Legal Department may immediately institute necessary legal proceedings for the abatement, removal and enjoyment thereof in the manner provided by law, and shall take such other steps as may be necessary to accomplish these ends and shall apply to the court of competent jurisdiction to grant such relief as will remove or abate the structure, sign or use and restrain or enjoin the person, firm, corporation or organization from erecting, moving, altering or enlarging the structure or sign, or using the site contrary to the provisions of this Ordinance.
- C. Any person who erects a fence in violation of Sec. 405.3 shall be subject to a fine of not less than five dollars (\$5.00) nor more than five hundred dollars (\$500.00) for the first offense, a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for a second offense, and a fine of not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00) for a third and subsequent offenses. Each day a third or subsequent offense remains unabated shall be deemed a separate offense, and for the second and subsequent days the offense remains unabated, the penalty shall be a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00). (Ord.1994-27-O)

1608 COMBINED APPLICATION

1608.1 Procedures

The procedures contained in other sections and subsections of this Article, should be followed in processing applications of various types and shall be adhered to for both single item or combined item applications. As used in this subsection, the term "item" refers to the different types of applications such as, but not necessarily limited to, a Zoning Map Amendment, Variation, Special Use Permit, Renewal of a Special Use Permit or Modification of a Special Use Permit.

1609 FASTRAC APPLICATION (ORD. 1993-345-O)

1609.1 Definition

A FasTrac application is an application for a zoning request with regard to a specific site (Map Amendment, Special Use Permit, Variation, or a combination thereof) which, if complete and in accordance with the requirements of this Article, shall be accepted for filing by the Zoning Office one calendar week after the scheduled filing deadline for a Zoning Board of Appeals meeting.

1609.2 Procedures

A FasTrac application shall not be laid over by the Zoning Board of Appeals unless the legal requirements for action have not been met or unless the applicant requests a lay over. All FasTrac applications shall be considered to include a request that the City Council suspend Rule 11 of its rules of procedure, and take action on the Committee Report and Ordinance, if applicable, at the first City Council meeting following City Council committee action on the application. (Ord.1993-345-O)